

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHANE HOPKINS,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 05-870-SLR
)	
C/O J. PUSEY, et al.,)	
)	
Defendants.)	

O R D E R

At Wilmington this 8th day of September, 2006, having reviewed plaintiff's motion for an extension of time, in relation to defendants Fennell's and Mellen's motion to dismiss (D.I. 29);

IT IS ORDERED that plaintiff's motion (D.I. 38) is granted, to the following extent.

1. Rather than file an answer to the complaint, defendants Fennell and Mellen filed a paper characterized as a motion to dismiss which, because matters outside the pleadings were presented to the court in support thereof, must be treated by the court as a motion for summary judgment. (D.I. 29, 30) At the time this motion was filed, no discovery had been taken or scheduling order entered.

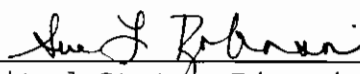
2. Pursuant to the scheduling order subsequently entered, the discovery cut-off date was set for October 16, 2006, and

dispositive motions were to be filed by November 16, 2006. (D.I. 33) Somewhat inconsistent with the case scheduling order was the briefing order entered in connection with the motion at issue, which required plaintiff to respond to such motion on or before August 25, 2006. (D.I. 36)

3. Under these circumstances, plaintiff may pursue discovery related to the pending motion (as well as discovery related to the other defendants), if he files his discovery requests on or before **September 18, 2006**.

4. Regardless of whether he takes advantage of the opportunity to take discovery, his response to the motion at issue filed by defendants Fennell and Mellen, as well as to the motion to dismiss filed by defendants Pierce, Merson and Brady (D.I. 26) shall be due on or before **November 16, 2006**.

5. Defendants may file reply briefs on or before **November 30, 2006**.



United States District Judge